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FAX TRANSMISSION COVER SHEET

Date: May 18, 1998
To: W. Bradley Litchfield, Esq.
Federal Election Commission
Fax: 202.219.3923
Re: PA Dem. Party; Advisory Opinion/Comments
Sender: Christine M. Tartaglione

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THE PENNSYLVANIA DEMOCRATIC PARTY

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May 18, 1998

Via Facsimile Transmission & First Class Mail

N. Bradley Litchfield, Esquire
Associate General Counsel, Policy Development
Federal Election Commission
999 "E" Street, NW
Washington, D.C. 20463

**Re: Federal Election Commission Advisory Opinion - AOR 1998-07;
COMMENTS**

Dear Mr. Litchfield:

On behalf of the Pennsylvania Democratic Party (hereinafter "the PDP") I am writing to submit comments to the draft advisory opinion, AOR 1998-07, issued pursuant to my original request of March 27, 1998.¹ Though the PDP concurs with most of the conclusions within the draft opinion, the following comments respectfully take exception with the determination concerning the PDP's proposed use of the parking facilities.

I. Exceptions — Proposed Establishment and Use of Parking Facilities

The draft opinion concludes that the "construction costs of additional parking space[s] would be revenue-producing disbursements, rather than directly related to the Party's offices parking needs." AOR 1998-07, at 8. Unfortunately, the draft opinion fails to acknowledge that in the past the Commission has permitted the use of committee assets in commercial ventures, when said assets are developed during the normal course of operations for the committee's own primary use. *See*, FEC Advisory Opinions 1991-34, 1989-4, 1981-53 and 1979-24. The PDP's proposed use of excess parking capacity is an analogous situation — the parking facility would be built or acquired during the normal course of constructing a headquarters facility for its own primary use, and any parking charge would be based on an independent market value of parking spaces in the area in which the facility is located.

¹ It should be noted that the draft opinion mistakenly indicates that my request was made in 1997.

N. Bradley Litchfield, Esquire

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The draft opinion's conclusion that any excess parking capacity is, by definition, not for the primary use of the committee, and therefore "costs apportioned to the excess, or public access parking space may not be covered with funds donated by the Act's building fund exception," fails to recognize the cyclical nature of state political committee's activities. AOR 1998-07, at 9. Excess capacity would vary, depending on the time of year or occasion. For example, the headquarters facility would be routinely used for state party nominating meetings, fund-raising functions and other large political activities. On these occasions, the PDP's needs would demand a large parking facility in order to accommodate the significant number of people who would ordinarily attend these functions that are routinely held during the political season. Depending on the occasion, none of the parking capacity would be available for the use of the general public.

However, during those periods in which election activities were less frequent, the PDP believes it is reasonable to offer a committee asset — unused parking spaces — to the general public for its use. Quite simply, it is not practically possible to simply apportion a certain percentage of the parking facility to the PDP's use and designate the excess capacity for the use of the general public. In this case, it is anticipated that the entire parking facility would be for the primary use of the PDP — parking spaces would only be offered to the general public when not used by the PDP.

The PDP does not take exception with the draft opinion's conclusion concerning the uses of the funds generated from the parking spaces. However, it is worth repeating that the payment for parking privileges is an ordinary commercial transaction involving the exchange of goods or services of equal value — each party to the transaction benefits equally. FEC Advisory Opinion 1986-14.

For the foregoing reasons, the PDP requests that the Commission reconsider the draft opinion's conclusions relative to the proposed use of the parking facility. Should you have any questions or if you need any additional information, please do not hesitate to contact Christopher B. Craig, Esq. At (717) 787-5662, whom I have directed to handle this inquiry.

Sincerely,



Christine M. Tartaglione
Acting Chairman

cc: Christopher B. Craig, Esq.